

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION  
9174 Sky Park Court, Suite 100  
San Diego, California 92123

MINUTES OF MEETING  
December 10, 2003

The regular meeting of the California Regional Water Quality Control Board, San Diego Region, was called to order by Chairman Minan at 9:00 a.m. at the Regional Water Quality Control Board, 9174 Sky Park Court, San Diego, California.

**Item 1** – Roll Call: Board Members Present: Chairman John Minan, Gary Stephany, Terese Ghio and Richard Wright.

Staff Present: John Robertus, Arthur Coe, Michael McCann, Lori Costa, David Barker, Deborah Jayne, Pete Michael, Brian Kelley, John Phillips, Stacey Baczkowski, Craig Carlisle, Paul Richter, Frank Melbourn, Rebecca Stewart, Bryan Ott, Sherrie Komeylyan, Lesley Dobalian, Christina Arias, Lisa Honma, Alan Monji, James Smith, Tom Alo and Sabine Knedlik.

Others Present on behalf of the Regional Board: State Water Resources Control Board – John Richards. Park Avenue Deposition Service: Diana Porter. Public Attendance: Glen Peterson, John Burcham - City of Escondido; Alan Langworthy, Larry Wasserman - City of San Diego; Neal Blossom - American Chemet Corp.; Dave Seymour - SMWD; Bill Raschick - Alpha One Diving; Jerry Desmond - Recreational Boaters of California; Candace Gibson, Fred Bast, Barry Pulver, Abe Barhoumi, James O'Dan, Melissa Porter - County of San Diego; Erv Nesheim - Brown and Caldwell; Tim Leathers - Cabrillo Isle Marina; Chris Strangley - AMEC; Carl Haines - Johnson & Jennings; Richard Xavier - International Paint; Bill Rocco, Marlan Hoffman - California Professional Divers Association; Rob Chichester - U.S. Navy; Nan Singhasemanon - Department of Pesticide Regulation; Eric Anderson - Farm Bureau; Steve Gruber - MEC Analytical; Dan O'Malley - O'Malley Commercial; Bill Kraus - Ceran-Kote; Fred Moore - CPM; Karen Helyer, Annie Hill, David Merk - Port of San Diego; Marco Gonzalez - Surfrider Foundation; Jamie Miller, Leigh Johnson - UC Sea Grant Extension; Timothy Moore - Risk Sciences; Laura Hunter - Environmental Health Coalition; Jan Driscoll - Allen Matkins; David Bond, Tom Nielsen, Jim Wachtler, Margo Hemond, Ray Lussa, Ed Denaci, Sue Fewster, Brad Oliver, Ann Miller, Deborah Mason, Jim OConnel, David Rive, Lauren Stetler, Mary Logsdon, Rick Shrake,

Sandy Purdon, Mike Ardelt, James Hopkins, Terry Price, Jeanette Novarina, Michael Taylor, Tom Driscoll - Shelter Island Yacht Basin Group.

**Item 2** – Public Forum

Laura Hunter, Environmental Health Coalition, talked about their disappointment in NASSCO's technical report regarding sediments. Ms. Hunter also talked about the issue of unpaid annual fees by federal facilities.

*Board Member Butcher arrived at 9:05 a.m.*

Chairman Minan asked Mr. Robertus to provide the most recent information as to where they were with the fees issue Ms. Hunter spoke about. Mr. Robertus said he was going to request that the State Board restart the invoicing process.

**Item 3** – Minutes of Board Meeting of November 12, 2003

*This record of the minutes of the meeting on this date is not intended for the official record of events and is solely for administrative convenience. A more detailed account of the proceedings is available upon request, consisting of a tape recording and a court reporter transcribed record. Please contact the Regional Board office for assistance.*

Mr. Wright moved approval of the November 12, 2003 minutes. The motion was seconded by Mr. Stephany and approved by unanimous vote.

**Item 4** – Chairman's, Board Member's, State Board Liaison's and Executive Officer's Reports.

Chairman Minan reminded the Board that per the Porter-Cologne Water Quality Control Act the Board was required to select one of its members as chairman at the first regular meeting held each year, which would be February 11, 2004.

Chairman Minan talked briefly about the litigation against the International Boundary and Water Commission.

Mr. Stephany talked about the San Diego River Conservancy Board meeting he attended and said they were recruiting for an Executive Officer.

Executive Officer Robertus briefly spoke about the wildfires items in his report.

Mr. Stephany expressed his concern about the possibility of the International Boundary and Water Commission doing away with secondary treatment.

**Item 5** – Waste Discharge Requirements: County of San Diego, San Marcos Landfill, San Diego County (tentative Order No. R9-2003-0003) (*Carol Tamaki*)

Mr. Wright moved approval of Order No. R9-2003-0003. The motion was seconded by Ms. Butcher and approved by unanimous vote.

**Item 6** – NPDES Permit Reissuance: Waste Discharge Requirements for the City of Escondido, Hale Avenue Resource Recovery Facility, Intermittent Wet Weather Discharge to Escondido Creek, San Diego County (tentative Order No. R9-2003-0394, NPDES Permit No. CA0108944) (*Bryan Ott*)

Mr. Robertus introduced the item and staff member Bryan Ott gave the presentation.

Glen Peterson, City of Escondido, urged the Board to approve the Order.

Mr. Robertus recommended the Board approve the Order with errata.

Mr. Stephany moved approval of Order No. R9-2003-0394 with errata. The motion was seconded by Ms. Butcher and approved by unanimous vote.

**Item 7** – PUBLIC HEARING: Modification to Cease and Desist Order No. R9-2003-0086 Against the City of San Diego for the San Diego Convention Center Groundwater Extraction Discharge to San Diego Bay to Establish Compliance with Waste Discharge Requirements Order No. R9-2003-0050, NPDES No. CA0109029 (tentative Addendum No. 1 to Cease and Desist Order No. R9-2003-0086) (*Sherrie Komeylyan*)

Mr. Robertus introduced the item and staff member Sherrie Komeylyan gave the presentation.

Board Members asked questions of Ms. Komeylyan.

Laura Hunter, Environmental Health Coalition, talked about concerns they had with the site.

Ms. Ghio recommended amending the errata, directive B.6.a.i, to read: “The City shall notify the Regional Board by telephone within the first 24 hours and in writing within the first 48 hours after the first effluent limitation exceedance for copper and/or toxicity is determined.”

Mr. Robertus recommended the Board approve the Addendum with the recommended amendment to the errata.

Mr. Stephany moved approval of Addendum No. 1 to Cease and Desist Order No. R9-2003-0086 with the amended errata. The motion was seconded by Ms. Ghio and approved by unanimous vote.

**Item 8** – PUBLIC HEARING: Receive public testimony on a Resolution to adopt an amendment to the Water Quality Control Plan for the San Diego Region to incorporate a Total Maximum Daily Load (TMDL) for Dissolved Copper in Shelter Island Yacht Basin, San Diego Bay. The Regional Board will conduct the Public Hearing today, but will take no action. The Regional Board will consider adoption of tentative Resolution No. R9-2004-0002 no earlier than February 2004. *(Lesley Dobalian and Christina Arias)*

Mr. Stephany disclosed that he was a boat owner and a member of a yacht club in the Shelter Island Yacht Basin but felt he could participate in the hearing. Mr. Richards agreed.

Chairman Minan made preliminary comments about the hearing. He also said that Executive Order 02-03 issued by the Governor didn’t apply to the federal TMDL process.

Senior staff member Deborah Jayne and staff members Christina Arias and Lesley Dobalian gave presentations.

Board Members asked questions of staff.

Other speakers included:

Jan Driscoll, Allen Matkins, attorney for the Shelter Island Yacht Basin Group.  
Ms. Driscoll urged the Board not to close the public comment period.

Timothy Moore, Risk Sciences  
Thomas Driscoll, San Diego Yacht Club  
David Merk, San Diego Port District

*The meeting was recessed for lunch and Executive Session at 12:15 p.m.*

**Item 9** – *Executive Session* - Discussion of Ongoing Litigation

The Regional Board may meet in closed session to discuss ongoing litigation for the following cases:

*People of the State of California Ex Rel. the Regional Water Quality Control Board, San Diego Region v. Robert Ortega, an individual in his capacity as Acting Commissioner of the International Boundary and Water Commission, United States Section, et al.. United States District Court, Southern District of California, Case No. 01-CV-027BTM(JFS); violation of effluent limits in waste discharge requirements for the International Wastewater Treatment Plant contained in Order No. 96-50 (NPDES No. CA0108928) and of Cease and Desist Order No. 96-52; Referral Order No. 99-61 (David Hanson); and the related “Surfrider” case:*

*Surfrider Foundation, San Diego Chapter v. Robert Ortega, et al., Case No. 99-CV-2441-BTM(JFS) (David Hanson)*

*People of the State of California Ex Rel. the Regional Water Quality Control Board, San Diego Region v. City of San Diego, U.S. District Court, Southern District of California, Case No. 03CV1381-B(POR) (David Hanson); and the related case:*

*San Diego BayKeeper and Surfrider Foundation, San Diego Chapter v. City of San Diego; U.S. District Court, Southern District of California; Case No. 01-CV-0550-B (POR) (David Hanson)*

*WILLIAM P. JOHNSON, an individual; and VAIL LAKE USA, LLC, a California limited liability company v. REGIONAL WATER QUALITY CONTROL BOARD – SAN DIEGO, a State of California board and DOES 1-50. Superior Court of the State of California for the County of San Diego, Case No. GIC815227; Petition for Writ of Mandate and Complaint for Damages in regards to Administrative Civil Liability Order No. R9-2002-0027 for violations of the statewide Construction Storm Water Permit, Order No. 99-08-DWQ. (Frank Melbourn)*

*Building Industry Association of San Diego County, et al. v. California State Water Resources Control Board and Regional Water Quality Control Board,*

*San Diego; In the Court of Appeal of the State of California, Case No. GIC 780263 (Phil Hammer)*

*Fallbrook Public Utilities District v. State Water Resources Control Board and Regional Water Quality Control Board, San Diego Region, Case No. GIC 81971; Petition for Writ of Mandate challenging administrative assessment of civil liability based on mandatory minimum penalties for violation of effluent limits in NPDES waste discharge requirements. (Frank Melbourne)*

*Divers' Environmental Conservation Organization v. State Water Resources Control Board, San Diego Superior Court, Case No. GIC819689. Petition for Writ of Mandate challenging waste discharge requirements for U.S. Navy, Naval Station San Diego based on absence of numeric effluent limits for toxic pollutants in discharges of storm water. (Paul Richter)*

*The meeting reconvened at 1:05 p.m.*

**Item 8** (continued)

Other speakers (continued):

Bill Raschick, Alpha One Diving

Jerry Desmond, Desmond & Desmond, for Recreational Boaters of California

Marlan Hoffman, California Professional Divers Association

Neal Blossom, American Chemet Corporation

Laura Hunter, Environmental Health Coalition

Marco Gonzalez, Surfrider Foundation

Leigh Johnson, UC Sea Grant Extension

Nan Singhasemanon, Department of Pesticide Regulation

Board Members discussed whether or not to close the public comment period. Mr. Robertus recommended that the public comment period be closed. Chairman Minan said the public comment period could be reopened at a later date if the Board felt it was necessary to do so.

Ms. Ghio made a motion to keep the record open for receipt of written comments for an additional 45 days. The motion was seconded by Ms. Butcher.

Chairman Minan and Mr. Wright said they were against the motion and explained why.

The motion was approved by a 3 – 2 vote.

Mr. Robertus informed the Board that due to the 45-day extension of the written comment period, he wouldn't be able to bring the item back to the Board in February 2004.

Chairman Minan announced that during Item 9 the International Boundary and Water Commission, William Johnson, Fallbrook Public Utilities District, Divers' Environmental Conservation Organization, Building Industry Association, San Diego BayKeeper and Surfrider Foundation lawsuits were discussed.

**Item 10** – *Executive Session* - Consideration of Initiation of Litigation

The Regional Board may meet in closed session to consider initiating criminal prosecution against persons who are alleged to have violated the Porter-Cologne Water Quality Control or the federal Clean Water Act.

The Executive Session was not held.

**Item 11** – *Executive Session* - Discussion of Pending Litigation

The Regional Board may meet in closed session to discuss pending litigation.

The Executive Session was not held.

**Item 12** – *Executive Session* - Personnel

The Regional Board may meet in closed session to consider personnel matters involving exempt employees [Authorized under Government Code Section 11126(a)]

The Executive Session was not held.

**Item 13** - Arrangements for Next Meeting and Adjournment

Wednesday, February 11, 2004 - 9:00 a.m.  
Rancho California Water District  
District Board Room  
42135 Winchester Road  
Temecula, California

There being no further business, the meeting was adjourned at 2:40 p.m.

These minutes were prepared by:

Signature of Executive Officer:

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Lori Costa  
Executive Assistant

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John H. Robertus